

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

BRANDON MOYE, SR.

Plaintiff,

v.

**BETH CREIGHTON, and
CREIGHTON & ROSE,**

Defendants.

No. 3:16-cv-00354-MO
OPINION AND ORDER

MOSMAN, J.,

Pro se plaintiff filed a Complaint [2] alleging fraud. Plaintiff's Motion for Leave to File Amended Complaint [6] raises claims of "fraud, forgery, perjury, theft by deception, professional misconduct, malpractice and more." For the following reasons, I DISMISS the case for lack of subject matter jurisdiction and DENY AS MOOT any pending motions. .

DISCUSSION

Federal courts have subject matter jurisdiction only as authorized by the Constitution and Congress. U.S. Const. art. III, § 2, cl. 1; *see also Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Federal courts have jurisdiction where an action arises under federal law, 28 U.S.C. § 1331, or where each plaintiff's citizenship is diverse from each defendant's

citizenship and the amount in controversy exceeds \$75,000, *id.* § 1332(a). The court may dismiss the action *sua sponte* where the court lacks subject matter jurisdiction. *Franklin v. State of Or., State Welfare Div.*, 662 F.2d 1342 1341 (9th Cir. 1981) (citing *Cal. Diversified Promotions, Inc. v. Musick*, 505 F.2d 278, 280 (9th Cir. 1974)). Moreover, where the court lacks subject matter jurisdiction, it is “not required to issue a summons or follow the other procedural steps.” *Loux v. Rhay*, 375 F.2d 55, 58 (9th Cir. 1967).

In his complaint, Plaintiff claimed this Court had jurisdiction based on a federal question. However, Plaintiff has not alleged a cause of action under federal law, but instead brings claims for state law violations. Thus, there is no federal question jurisdiction. Plaintiff does not allege, nor is it apparent from the face of his complaint, that there is diversity jurisdiction. Thus, this court lacks subject matter jurisdiction. Plaintiff cannot pursue his claims in federal court, although he may be able to seek relief in state court.

CONCLUSION

Plaintiff’s Complaint is DISMISSED due to lack of subject matter jurisdiction.
Plaintiff’s Motion to Amend Complaint [6] is DENIED AS MOOT.

IT IS SO ORDERED.

DATED this 8th day of April, 2016.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge